

**ASSEMBLY BILL**

**No. 1772**

**Introduced by Committee on Public Employees, Retirement and Social Security (Torrico (Chair), Jones, Mullin, and Negrete McLeod)**

April 4, 2005

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An act to amend Sections 22115.2, 22662, 22663, 22703, 22705, 22705.5, 23001, 23104, 23202, 23300, 24005, 24105, 24204, 24214, 24216, 24219, 24306.5, 24306.7, 24307, 24311, 24312, 24400, 24410.6, 24613, 24701, 24704, 24750, 24751, and 27100 of the Education Code, relating to teachers' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1772, as introduced, Committee on Public Employees, Retirement and Social Security. Teachers' retirement.

Existing law requires the Teachers' Retirement Board to report to the Governor and the Legislature on the purchasing power of benefits under the Defined Benefit Program of the State Teachers' Retirement Plan no later than April 1, of each year.

This bill would change that date to June 1. The bill would also make various technical changes to the Teachers' Retirement Law.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22115.2 of the Education Code is  
2 amended to read:

22115.2. “Concurrent membership” means membership in the Defined Benefit Program by an individual who is credited with service that is not used as a basis for benefits under any other public retirement system and is also a member of the California Public Employees’ Retirement System, the Legislators’ Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco ~~City and County~~ Employees’ Retirement System. A member with concurrent membership shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (c) of Section 22134.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

SEC. 2. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account under the Defined Benefit Program may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit under the Defined Benefit Program only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order that specifies the redeposit rights of the nonmember spouse is entered. The nonmember spouses’ election to redeposit shall be made on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under the Defined Benefit Program, he or she shall repay all or a portion of the member’s refunded accumulated retirement contributions that were awarded to the nonmember spouse and shall pay regular

1 interest from the date of the refund to the date payment of the  
2 redeposit is completed.

3 (d) All payments shall be received by the system before the  
4 effective date of the nonmember spouse's retirement under this  
5 part. If any payment due because of the election is not received at  
6 the system's ~~office in Sacramento~~ *headquarters office, as*  
7 *established pursuant to Section 22375*, within 120 days of its due  
8 date, the election shall be canceled and any payments made under  
9 the election shall be returned to the nonmember spouse.

10 (e) The right of the nonmember spouse to redeposit shall be  
11 subject to Section 23203.

12 (f) The member shall not have a right to redeposit the share of  
13 the nonmember spouse in the previously refunded accumulated  
14 retirement contributions under this part whether or not the  
15 nonmember spouse elects to redeposit. However, any  
16 accumulated retirement contributions previously refunded under  
17 this part and not explicitly awarded to the nonmember spouse  
18 under this part by the judgment or court order shall be deemed  
19 the exclusive property of the member.

20 SEC. 3. Section 22663 of the Education Code is amended to  
21 read:

22 22663. The nonmember spouse who is awarded a separate  
23 account under this part has the right to purchase additional  
24 service credit in accordance with the determination of the court  
25 pursuant to Section 22652.

26 (a) The nonmember spouse may purchase only the service  
27 credit that the court, pursuant to Section 22652, has determined  
28 to be the community property interest of the nonmember spouse.

29 (b) The nonmember spouse shall inform the system in writing  
30 of his or her intent to purchase additional service credit within  
31 180 days after the date the judgment or court order addressing the  
32 right of the nonmember spouse to purchase additional service  
33 credit is entered. The nonmember spouse shall elect to purchase  
34 additional service credit on a form provided by the system within  
35 30 days after the system mails an election form and billing.

36 (c) If the nonmember spouse elects to purchase additional  
37 service credit, he or she shall pay, prior to retirement under this  
38 part, all contributions with respect to the additional service at the  
39 contribution rate for additional service credit in effect at the time

1 of election and regular interest from July 1 of the year following  
2 the year upon which contributions are based.

3 (1) (A) The nonmember spouse shall purchase additional  
4 service credit by paying the required contributions and interest in  
5 one lump sum, or in not more than 120 monthly installments,  
6 provided that no installment, except the final installment, is less  
7 than twenty-five dollars (\$25). Regular interest shall be charged  
8 on the monthly, unpaid balance if the nonmember spouse pays in  
9 installments.

10 (B) If any payment due, because of the election, is not  
11 received at the system's ~~office in Sacramento~~ *headquarters*  
12 *office, as established pursuant to Section 22375*, within 120 days  
13 of its due date, the election shall be canceled and any payments  
14 made under the election shall be returned to the nonmember  
15 spouse.

16 (2) The contributions shall be based on the member's  
17 compensation earnable in the most recent school year during  
18 which the member was employed, preceding the date of  
19 separation established by the court pursuant to Section 22652.

20 (3) All payments of contributions and interest shall be  
21 received by the system before the effective date of the retirement  
22 of the nonmember spouse.

23 (d) The nonmember spouse does not have a right to purchase  
24 additional service credit under this part after the effective date of  
25 a refund of the accumulated retirement contributions in the  
26 separate account of the nonmember spouse.

27 (e) The member does not have a right to purchase the  
28 community property interest of the nonmember spouse of  
29 additional service credit under this part whether or not the  
30 nonmember spouse elects to purchase the additional service  
31 credit. However, any additional service credit eligible for  
32 purchase that is not explicitly awarded to the nonmember spouse  
33 by the judgment or court order shall be deemed the exclusive  
34 property of the member.

35 SEC. 4. Section 22703 of the Education Code is amended to  
36 read:

37 22703. (a) Service shall be credited to the Defined Benefit  
38 Program, except as provided in subdivision (b).

39 (b) A member's creditable service that exceeds 1.000 in a  
40 school year shall not be credited to the Defined Benefit Program.

Commencing July 1, 2002, contributions by the employer that are deposited in the Teachers' Retirement Fund and the member on creditable compensation paid to the member for that service, exclusive of contributions pursuant to Section 22951, shall be credited to the Defined Benefit Supplement Program.

(c) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits that the member would have received for that service under the provisions of this part as they existed on June 30, 1956. This subdivision shall not apply to service that is credited in the San Francisco ~~City and County Employees~~ *Employees'* Retirement System.

(d) The amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

SEC. 5. Section 22705 of the Education Code is amended to read:

22705. No service shall be included under this part for which a member of the Defined Benefit Program is entitled to receive a retirement benefit in a lump sum or installment payments, for other than military service, from any public retirement system other than this system, or under the American Gratuities Act No. 4151 relating to service in the Philippine Islands under which 15 or more years of creditable service has accrued, or the San Francisco ~~City and County Employees~~ *Employees'* Retirement System. If a retired member under this part becomes entitled to such a retirement benefit, his or her retirement allowance shall be reduced thereafter to exclude the service upon which the retirement benefit is based, without other change in his or her retirement status. This section shall not apply to any retirement benefit received from a defined contribution plan that is qualified under Section 401(a), Section 403(b), or Section 457 of the Internal Revenue Code.

1 SEC. 6. Section 22705.5 of the Education Code is amended to  
2 read:

3 22705.5. Service subject to coverage by the San Francisco  
4 ~~City and County~~ Employees' Retirement System pursuant to  
5 Section 24701 is excluded from coverage in the Defined Benefit  
6 Program. The member shall retain the right to receive a  
7 retirement allowance for creditable service that is subject to  
8 coverage under the Defined Benefit Program unless he or she  
9 withdraws his or her accumulated retirement contributions for  
10 that service.

11 SEC. 7. Section 23001 of the Education Code is amended to  
12 read:

13 23001. Each county superintendent, district superintendent,  
14 chancellor of a community college district, or other employing  
15 agency that reports directly to the system shall draw requisitions  
16 for contributions required by Sections 22901 and 22950 in favor  
17 of the State Teachers' Retirement System, and the requisitions,  
18 when allowed and signed by the county auditor, shall constitute a  
19 warrant against the county treasury. The county superintendent,  
20 district superintendent, chancellor of a community college  
21 district, or other employing agency thereupon shall forward the  
22 warrants to the board in ~~Sacramento~~ *the system's headquarters*  
23 *office, as established pursuant to Section 22375*. The amounts  
24 received shall be deposited immediately in the State Treasury to  
25 the Teachers' Retirement Fund.

26 SEC. 8. Section 23104 of the Education Code is amended to  
27 read:

28 23104. (a) Deposit in the United States mail of an initial  
29 warrant drawn as directed by the member as a refund of  
30 contributions upon termination of employment, and addressed to  
31 the address directed by the member, constitutes a return of the  
32 member's accumulated retirement contributions under this part.

33 (b) If the member has elected on a form provided by the  
34 system to transfer all or a specified portion of the accumulated  
35 retirement contributions that are eligible for direct  
36 trustee-to-trustee transfer to the trustee of a qualified plan under  
37 Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A.  
38 Sec. 402), deposit in the United States mail of a notice that the  
39 requested transfer has been made constitutes a return of the  
40 member's accumulated retirement contributions under this part.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's ~~office in Sacramento~~ *headquarters office, as established pursuant to Section 22375*, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's ~~office in Sacramento~~ *headquarters office, as established pursuant to Section 22375*, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

SEC. 9. Section 23202 of the Education Code is amended to read:

23202. (a) An election pursuant to Section 23200 to redeposit accumulated retirement contributions may be made by a member anytime prior to the effective date of the member's retirement under this part.

(b) An election to redeposit ~~refunded~~ accumulated retirement contributions *returned to the member* shall be considered as an election to repay accumulated retirement contributions previously ~~refunded~~ *returned*, up to but not exceeding the amount required to restore the total service credit ~~refunded~~ *returned*, under the provisions of this chapter.

(c) If any payment due because of this election is not received at the system's ~~office in Sacramento~~ *headquarters office, as established pursuant to Section 22375*, within 120 days of its due date, the election shall be canceled. Upon the cancellation of election, the member shall receive credit for the payments made under the election or, at the request of the member, those payments shall be ~~refunded~~ *returned*.

(d) If the election is canceled, the member may at any time prior to the effective date of retirement under this part, again elect to redeposit accumulated retirement contributions previously withdrawn or ~~refunded~~ *returned*, in accordance with

1 Section 23200 and all the laws, rules, and regulations pertaining  
2 thereto.

3 SEC. 10. Section 23300 of the Education Code is amended to  
4 read:

5 23300. (a) A member of the Defined Benefit Program may  
6 designate a beneficiary to receive benefits payable under this part  
7 upon the member's death. A beneficiary designation may not be  
8 made in derogation of a community property interest of a  
9 nonmember spouse, as defined by Section 25000.9, with respect  
10 to service or contributions credited under this part, unless the  
11 nonmember spouse has previously obtained an alternative order  
12 pursuant to Section 2610 of the Family Code.

13 (b) A member's beneficiary designation for benefits payable  
14 under the Defined Benefit Program, including a designation  
15 made pursuant to Section 24300, shall also apply to benefits  
16 payable under the Defined Benefit Supplement Program. A  
17 beneficiary designation shall be in writing on a form prescribed  
18 by the system and executed by the member.

19 (c) A beneficiary designation ~~may~~ *shall* not be valid unless it  
20 is received in the ~~office of the system in Sacramento~~ *system's*  
21 *headquarters office, as established pursuant to Section 22375,*  
22 prior to the member's death.

23 (d) A member may change or revoke a beneficiary designation  
24 at any time by making a new designation pursuant to this section.

25 (e) This section is not applicable to the designation of an  
26 option beneficiary or an annuity beneficiary under this part.

27 (f) An option beneficiary may designate a death beneficiary  
28 who would, upon the death of the option beneficiary, be entitled  
29 to receive the option beneficiary's accrued monthly allowance.

30 SEC. 11. Section 24005 of the Education Code is amended to  
31 read:

32 24005. (a) A disability allowance under this part shall  
33 become effective upon any date designated by the member,  
34 provided all of the following conditions are met:

35 (1) An application for disability allowance is filed on a form  
36 provided by the system.

37 (2) The effective date is later than the last day of creditable  
38 service for which compensation is payable to the member.

39 (3) The effective date is no earlier than either the first day of  
40 the month in which the application is received by the system's



1 ~~office in Sacramento~~ *headquarters office, as established*  
2 *pursuant to Section 22375*, or the date upon and continuously  
3 after which the member is determined to the satisfaction of the  
4 board to have been mentally incompetent.

5 (b) If the member is employed to perform creditable service  
6 subject to coverage under the Defined Benefit Program at the  
7 time the disability allowance is approved under this part, the  
8 member shall notify the system in writing, within 90 days, of the  
9 last day on which the member will perform service. If the  
10 member does not respond within 90 days, or if the last day on  
11 which service will be performed is more than 90 days after the  
12 date the system notifies the member of approval of the disability  
13 allowance, the member's application for a disability allowance  
14 shall be rejected and a disability allowance shall not be payable  
15 to the member.

16 SEC. 12. Section 24105 of the Education Code is amended to  
17 read:

18 24105. (a) A disability retirement allowance under this part  
19 shall become effective upon any date designated by the member,  
20 provided that all of the following conditions are met:

21 (1) An application for disability retirement is filed on a form  
22 provided by the system.

23 (2) The effective date is later than the last day of service for  
24 which compensation is payable to the member.

25 (3) The effective date is no earlier than either the first day of  
26 the month in which the application is received at the system's  
27 ~~office in Sacramento~~ *headquarters office, as established*  
28 *pursuant to Section 22375*, or the date upon and continuously  
29 after which the member is determined to the satisfaction of the  
30 board to have been mentally incompetent.

31 (b) If a member's application for disability retirement under  
32 this part does not contain an election of either an unmodified  
33 allowance or an allowance modified under an option and if the  
34 member subsequently submits an election, but not within the  
35 30-day period established pursuant to Section 24301, the board  
36 shall set a benefit effective date which is no earlier than the first  
37 day of the month in which the subsequent election is received by  
38 the system. If the member fails to submit an election pursuant to  
39 Section 24301 and within six months of the date the  
40 acknowledgment notice is mailed pursuant to Section 24301, the

1 member's application for disability retirement under this part  
2 shall be rejected.

3 (c) If the member is employed to perform creditable service  
4 subject to coverage under the Defined Benefit Program at the  
5 time the disability retirement is approved, the member shall  
6 notify the system in writing, within 90 days, of the last day on  
7 which the member will perform service. If the member does not  
8 respond within 90 days, or if the last day on which service will  
9 be performed is more than 90 days after the date the system  
10 notifies the member of the approval of disability retirement, the  
11 member's application for disability retirement shall be rejected  
12 and a disability retirement allowance shall not be payable to the  
13 member.

14 SEC. 13. Section 24204 of the Education Code is amended to  
15 read:

16 24204. A service retirement allowance under this part shall  
17 become effective upon any date designated by the member,  
18 provided all of the following conditions are met:

19 (a) An application for service retirement allowance is filed on  
20 a form provided by the system, ~~that~~ *which* is executed no earlier  
21 than six months before the effective date of retirement allowance.

22 (b) The effective date is later than the last day of creditable  
23 service for which compensation is payable to the member.

24 (c) The effective date is no earlier than the first day of the  
25 month in which the application is received at the system's ~~office~~  
26 ~~in Sacramento headquarters office, as established pursuant to~~  
27 *Section 22375.*

28 (d) Either of the following conditions exists:

29 (1) The effective date is no earlier than one year following the  
30 date on which the retirement allowance was terminated under  
31 Section 24208, or subdivision (a) of Section 24117.

32 (2) The effective date is no earlier than the date upon and  
33 continuously after which the member is determined to the  
34 satisfaction of the board to have been mentally incompetent.

35 (e) A member who files an application prior to the effective  
36 date of retirement may change or cancel his or her retirement  
37 application, as long as the form provided by the system is  
38 received in the system's ~~office in Sacramento~~ *headquarters*  
39 *office, established pursuant to Section 22375,* no later than the  
40 last day of the month in which the retirement date is effective.

SEC. 14. Section 24214 of the Education Code, as amended by Section 22 of Chapter 912 of the Statutes of 2004, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the retirement fund or accrue service credit based on compensation earned from that service.

(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system. *For the purpose of this paragraph, the period of 12 consecutive months begins from the effective date of the member's most recent retirement.*

(2) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor, shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(i) This section shall be repealed on January 1, 2008, unless later enacted legislation extends or deletes that date.

SEC. 15. Section 24214 of the Education Code, as amended by Section 23 of Chapter 912 of the Statutes of 2004, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the retirement fund or accrue service credit based on compensation earned from that service.

(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2. *For the purpose of this paragraph, the period of 12 consecutive months begins from the effective date of the member's most recent retirement.*

(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor, shall, in any one school year, be an

1 amount calculated by the board each July 1 equal to twenty-two  
2 thousand dollars (\$22,000) adjusted by the percentage change in  
3 the average compensation earnable of active members of the  
4 Defined Benefit Program, as determined by the system, from the  
5 1998–99 fiscal year to the fiscal year ending in the previous  
6 calendar year.

7 (g) If a member retired for service under this part earns  
8 compensation for performing activities identified in paragraphs  
9 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of  
10 Section 22119.5 in excess of the limitation specified in  
11 subdivision (f), as an employee of an employer, as an employee  
12 of a third party, or as an independent contractor, within the  
13 California public school system, the member's retirement  
14 allowance shall be reduced by the amount of the excess  
15 compensation. The amount of the reduction may be equal to the  
16 monthly allowance payable but may not exceed the amount of  
17 the annual allowance payable under this part for the fiscal year in  
18 which the excess compensation was earned.

19 (h) The language of this section derived from the amendments  
20 to the section of this number added by Chapter 394 of the  
21 Statutes of 1995, enacted during the 1995–96 Regular Session, is  
22 deemed to have become operative on July 1, 1996.

23 (i) This section shall become operative on January 1, 2008.

24 SEC. 16. Section 24216 of the Education Code is amended to  
25 read:

26 24216. (a) (1) A member retired for service under this part  
27 who is appointed as a trustee or administrator by the  
28 Superintendent of Public Instruction pursuant to Section 41320.1,  
29 or a member retired for service who is assigned by a county  
30 superintendent of schools pursuant to Article 2 (commencing  
31 with Section 42122) of Chapter 6 of Part 24, shall be exempt  
32 from subdivisions (d) and (f) of Section 24214 for a maximum  
33 period of two years.

34 (2) The period of exemption shall commence on the date the  
35 member retired for service is appointed or assigned and shall end  
36 no more than two calendar years from that date, after which the  
37 limitation specified in subdivisions (d) and (f) of Section 24214  
38 shall apply.

39 (3) An exemption under this subdivision shall be granted by  
40 the system providing that the Superintendent of Public

1 Instruction or the county superintendent of schools submits  
2 documentation required by the system to substantiate the  
3 eligibility of the member retired for service for an exemption  
4 under this subdivision.

5 (b) (1) A member retired for service under this part who is  
6 employed by an employer to perform creditable service in an  
7 emergency situation to fill a vacant administrative position  
8 requiring highly specialized skills shall be exempt from the  
9 provisions of subdivisions (d) and (f) of Section 24214 for  
10 creditable service performed up to one-half of the full-time  
11 ~~equivalent for that~~ position, if the vacancy occurred due to  
12 circumstances beyond the control of the employer.

13 (2) The period of exemption shall commence on the date the  
14 member retired for service is appointed or assigned and shall end  
15 no more than two calendar years from that date, after which the  
16 limitation specified in subdivisions (d) and (f) of Section 24214  
17 shall apply.

18 (3) An exemption under this subdivision shall be granted by  
19 the system subject to the following conditions:

20 (A) The recruitment process to fill the vacancy on a permanent  
21 basis is expected to extend over several months.

22 (B) The employment is reported in a public meeting of the  
23 governing body of the employer.

24 (C) The employer submits documentation required by the  
25 system to substantiate the eligibility of the member retired for  
26 service for an exemption under this subdivision.

27 (c) This section does not apply to any person who has received  
28 additional service credit pursuant to Section 22715 or 22716.

29 (d) A person who has received additional service credit  
30 pursuant to Section 22714 or 22714.5 shall be ineligible for one  
31 year from the effective date of retirement for the exemption  
32 provided in this section for service performed in any school  
33 district, community college district, or county office of education  
34 in the state.

35 (e) This section shall remain in effect only until January 1,  
36 2008, and as of that date is repealed, unless a later enacted  
37 statute, which is enacted before January 1, 2008, deletes or  
38 extends that date.

39 SEC. 17. Section 24219 of the Education Code is amended to  
40 read:

1 24219. Members who were retired under a previously  
2 existing local teachers' retirement system or the San Francisco  
3 ~~City and County~~ Employees' Retirement System prior to July 1,  
4 1972, who have not retired under this part for the local system  
5 service performed prior to July 1, 1972, shall have that portion of  
6 the retirement allowance computed under the law in effect on  
7 June 30, 1972, whenever they retire in the future.

8 SEC. 18. Section 24306.5 of the Education Code is amended  
9 to read:

10 24306.5. (a) A member who retired for service under Option  
11 2 or Option 3 with an effective date prior to January 1, 1991, may  
12 elect to change Option 2 to Option 6 or Option 3 to Option 7  
13 under all of the following conditions:

14 (1) The election is made during the six-month period  
15 commencing July 1, 1994, and ending December 31, 1994.

16 (2) The same beneficiary under Option 2 or Option 3 is named  
17 as beneficiary under Option 6 or Option 7.

18 (3) The change in options is consistent with Sections 22453  
19 and 24305.

20 (4) The option beneficiary is not afflicted with any known  
21 terminal illness and the retired member shall state under penalty  
22 of perjury that to the best of his or her knowledge the option  
23 beneficiary is not afflicted with any known terminal illness.

24 (5) The option beneficiary has not predeceased the retired  
25 member as of the effective date of the change in options.

26 (b) The change in options shall be effective on the date the  
27 election is signed, provided that the election is received at the  
28 system's ~~office in Sacramento~~ *headquarters office, as established*  
29 *pursuant to Section 22375*, within 30 days after the date of the  
30 signature.

31 (c) If an election to change options is made pursuant to this  
32 section, the modified allowance shall be reduced in a manner  
33 determined by the board to ensure that no additional liability  
34 shall be incurred by the plan pursuant to this section.

35 SEC. 19. Section 24306.7 of the Education Code is amended  
36 to read:

37 24306.7. (a) Any member who retired for service under  
38 Option 4 or Option 5 with an effective date prior to January 1,  
39 1991, may elect to change Option 4 to Option 6 or Option 5 to  
40 Option 7 if all of the following conditions are met:



1 (1) The election is made during the three-month period  
2 commencing January 1, 1999, and ending March 31, 1999.

3 (2) The same beneficiary under Option 4 or Option 5 is named  
4 as beneficiary under Option 6 or Option 7.

5 (3) The change in options is consistent with Sections 22453  
6 and 24305.

7 (4) The option beneficiary is not afflicted with any known  
8 terminal illness.

9 (5) The option beneficiary has not predeceased the retired  
10 member as of the effective date of the change in option.

11 (6) The election to change the option under this section is  
12 received in the system's office in Sacramento at least 30 days  
13 prior to the death of the option beneficiary.

14 (b) Failure to satisfy all of the conditions in subdivision (a)  
15 shall render the change of election invalid.

16 (c) The change in options under this section shall be effective  
17 on the date the election is signed, provided all the conditions set  
18 forth in subdivision (a) are satisfied and the election is received  
19 at the system's ~~office in Sacramento~~ *headquarters office, as*  
20 *established pursuant to Section 22375*, within 30 days after the  
21 date of the signature.

22 (d) The selection of a new joint and survivor option under this  
23 section is subject to a further modification of the modified  
24 retirement allowance. In no event may a retired member elect a  
25 joint and survivor option that would result in any additional  
26 liability to the fund.

27 SEC. 20. Section 24307 of the Education Code is amended to  
28 read:

29 24307. (a) A member who qualifies to apply for retirement  
30 under Section 24201 or 24203 may make a preretirement election  
31 of an option, as provided in Section 24300 without right of  
32 revocation or change after the effective date of retirement, except  
33 as provided in this part. The preretirement election of an option  
34 shall become effective ~~on~~ *as of the date of the member's*  
35 *signature on* a properly executed form prescribed by the system  
36 ~~is signed~~, providing the election is received in the system's ~~office~~  
37 ~~in Sacramento~~ *headquarters office, as established pursuant to*  
38 *Section 22375*, within 30 days after the date of signature.

39 (b) *For the purpose of this section, a properly executed form*  
40 *shall include the signature of the member's spouse or registered*

1 *domestic partner, if applicable. The date of that signature shall*  
2 *be within 30 days of the member's signature.*

3 (c) A member who makes a preretirement election of an  
4 Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7  
5 may subsequently make a preretirement election of Option 8. The  
6 member may retain the same option and the same option  
7 beneficiary as named in the prior preretirement election, as an  
8 option under Option 8.

9 ~~(e)~~

10 (d) Upon the member's death prior to the effective date of  
11 retirement, the beneficiary who was designated under the option  
12 elected and who survives shall receive an allowance calculated  
13 under the option, under the assumption that the member retired  
14 for service pursuant to Chapter 27 (commencing with Section  
15 24201) on the date of death. The payment of the allowance to the  
16 option beneficiary shall be in lieu of the family allowance  
17 provided in Section 23804, the payment provided in paragraph  
18 (1) of subdivision (a) of Section 23802, the survivor benefit  
19 allowance provided in Section 23854, and the payment provided  
20 in subdivisions (a) and (b) of Section 23852, except that if the  
21 beneficiary dies before all of the member's accumulated  
22 retirement contributions are paid, the balance, if any, shall be  
23 paid to the estate of the person last receiving or entitled to  
24 receive the allowance. The accumulated annuity deposit  
25 contributions and the death payment provided in Sections 23801  
26 and 23851 shall be paid to the beneficiary in a lump sum.

27 ~~(d)~~

28 (e) If the member subsequently retires for service, and the  
29 elected option has not been canceled pursuant to Section 24309,  
30 a modified service retirement allowance computed under Section  
31 24300 and the option elected shall be paid.

32 ~~(e)~~

33 (f) The amount of the service retirement allowance prior to  
34 applying the option factor shall be calculated as of the earlier of  
35 the member's age at death before retirement or age on the last  
36 day of the month in which the member requested service  
37 retirement be effective. The modification of the service  
38 retirement allowance under the option elected shall be based on  
39 the ages of the member and the beneficiary designated under the  
40 option, as of the date the election was signed.

1 ~~(f)~~

2 (g) A member who terminates the service retirement  
3 allowance pursuant to Section 24208 shall not be eligible to file a  
4 preretirement election of an option until one calendar year  
5 elapses from the date the allowance is terminated.

6 ~~(g)~~

7 (h) The system shall inform members who are qualified to  
8 make a preretirement election of an option, through the annual  
9 statements of account, that the election of an option can be made.

10 ~~(h)~~

11 (i) This section shall become operative on January 1, 2000.

12 SEC. 21. Section 24311 of the Education Code is amended to  
13 read:

14 24311. (a) A member who has a preretirement election of an  
15 option in effect on December 31, 1990, may change his or her  
16 preretirement election of Option 2, Option 3, Option 4, or Option  
17 5, to either Option 6 or Option 7 without the allowance reduction  
18 prescribed in Sections 24309 and 24310, provided the change is  
19 made on or after January 1, 1991, and prior to the earlier of  
20 January 1, 1992, or the member's retirement under this part.

21 (b) If the member elects to change his or her option under this  
22 section, then the member shall retain the same option beneficiary  
23 as named in the prior preretirement election. The election to  
24 change the preretirement election under this section shall be void  
25 if not received in the system's ~~office in Sacramento~~ *headquarters*  
26 *office, as established pursuant to Section 22375*, at least 30 days  
27 prior to the death of the option beneficiary.

28 SEC. 22. Section 24312 of the Education Code is amended to  
29 read:

30 24312. (a) A member who has a preretirement election of an  
31 option in effect on December 31, 1999, may change his or her  
32 preretirement election of Option 2, Option 3, Option 4, Option 5,  
33 Option 6 or Option 7 to Option 8 without the allowance reduction  
34 prescribed in Sections 24309 and 24310, provided the change is  
35 made on or after January 1, 2000, and prior to the earlier of July  
36 1, 2000, or the member's effective date of retirement.

37 (b) If the member elects to change his or her option under this  
38 section then the member shall retain the same option and the  
39 same option beneficiary as named in the prior preretirement  
40 election of an option as one of the options under Option 8. The

1 election to change the preretirement election under this section  
2 shall be void if not received in the system's ~~office in Sacramento~~  
3 *headquarters office, as established pursuant to Section 22375*, at  
4 least 30 days prior to the death of the option beneficiary.

5 (c) This section shall become operative on January 1, 2000.

6 SEC. 23. Section 24400 of the Education Code is amended to  
7 read:

8 24400. The Legislature recognizes that inflation erodes the  
9 purchasing power of benefits paid under the plan under this part.  
10 It is the intent of the Legislature to understand the degree of  
11 erosion of these benefits. The board shall report to the Governor  
12 and Legislature no later than ~~April~~ *June* 1 of each year on the  
13 extent to which inflation has eroded the purchasing power of  
14 benefits provided under the Defined Benefit Program. The board  
15 shall indicate the amount of supplementary increases in  
16 retirement allowances required to preserve the purchasing power  
17 of benefits provided by the Defined Benefit Program. The board  
18 shall also determine and report on the increases.

19 SEC. 24. Section 24410.6 of the Education Code is amended  
20 to read:

21 24410.6. (a) Notwithstanding any provision of this part,  
22 including, but not limited to, subdivision (e) of Section 22664,  
23 and except as provided in subdivisions (b) and (c), the annual  
24 allowance payable on the effective date of this section to a retired  
25 member, an option beneficiary, or a surviving spouse receiving  
26 an allowance pursuant to either Section 23805 or 23855 shall not  
27 be less than the amount identified in the following schedule for  
28 the number of years of the member's credited service under the  
29 Defined Benefit Program at the time of the member's retirement,  
30 disability, or death, excluding service credited pursuant to  
31 Sections 22714, 22715, 22717, and 22826, after the application  
32 of all allowances and allowance increases authorized by this part,  
33 including those specified in Sections 24412 and 24415, as those  
34 sections read on December 31, 2000, and excluding increases  
35 authorized by Section 24410.7 and annuities payable from the  
36 accumulated annuity deposit contributions or the accumulated  
37 tax-sheltered annuity contributions:

1	20 years of credited service.....	\$15,000
2	21 years of credited service.....	\$15,500
3	22 years of credited service.....	\$16,000
4	23 years of credited service.....	\$16,500
5	24 years of credited service.....	\$17,000
6	25 years of credited service.....	\$17,500
7	26 years of credited service.....	\$18,000
8	27 years of credited service.....	\$18,500
9	28 years of credited service.....	\$19,000
10	29 years of credited service.....	\$19,500
11	30 years or more of credited service.....	\$20,000

12  
13 (b) Notwithstanding subdivision (a), the amount identified in  
14 the schedule in subdivision (a) shall be reduced:

15 (1) By 50 percent for a beneficiary receiving an allowance  
16 under Option 3 or Option 7.

17 (2) By one-third for an option beneficiary receiving an  
18 allowance under Option 4 after the death of the member or for a  
19 member receiving an allowance under Option 4 after the death of  
20 the option beneficiary.

21 (3) By 50 percent for an option beneficiary receiving an  
22 allowance under Option 5 after the death of the member or for a  
23 member receiving an allowance under Option 5 after the death of  
24 the option beneficiary.

25 (4) By a percentage equal to 100 percent minus the percentage  
26 of the member's modified allowance received by the option  
27 beneficiary for each option beneficiary receiving an allowance  
28 under Option 8.

29 (5) By 60 percent for a surviving spouse receiving an  
30 allowance pursuant to subdivision (a) of Section 23805.

31 (6) By 50 percent for a surviving spouse receiving an  
32 allowance pursuant to subdivision (c) of Section 23805 or  
33 Section 23855.

34 (c) A benefit shall be paid pursuant to this section if both of  
35 the following apply:

36 (1) The retired member, the option beneficiary, or the  
37 surviving spouse had an allowance payable on January 1, 2000,  
38 and was not eligible to receive a benefit pursuant to Section  
39 24410.5.

(2) The retired member or the member whose service was the basis of the allowance payable to the option beneficiary or surviving spouse was one of the following:

(A) A member who retired prior to the age of 55 years, provided the minimum allowance specified in subdivision (a) shall be reduced to an amount equal to that minimum allowance multiplied by the ratio of the percentage of final compensation per year of credited service on which the member's initial allowance was based to 1.4.

(B) A member who was paid a retirement allowance pursuant to Section 24211, 24212, or 24213, if the member's credited service, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was less than 20 years but whose projected service to normal retirement age, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was equal to or greater than 20 years, provided that the minimum allowance payable shall be based on 20 years of credited service.

(C) A member who retired as an inactive member.

(D) A member who retired prior to March 21, 1974, with 19.5 years or more of credited service, provided that the minimum allowance payable shall be based on 20 years of credited service.

(E) A member who retired on or after March 21, 1974, and prior to January 1, 2000, and whose credited service, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was less than 20 years, but whose credited service, excluding service credited pursuant to Sections 22714, 22715, and 22826, but including service credited pursuant to Section 22717, was equal to or greater than 20 years, provided that the minimum allowance payable shall be based on 20 years of credited service.

(F) A member whose credited service, excluding service credited pursuant to Sections 22714, 22715, and 22826, but including credited service that a court has ordered be awarded to the member's nonmember spouse pursuant to Section 22652, equaled at least 20 years, provided that the amount payable to the member pursuant to this section shall be based on the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, and the amount awarded to the nonmember spouse, and further provided that the minimum allowance specified in subdivision (a) shall be

reduced to an amount equal to that minimum allowance multiplied by the ratio of (i) the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, to (ii) the sum of the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, and the amount awarded to the nonmember spouse.

(d) A benefit shall be paid pursuant to this section to a retired member receiving a benefit pursuant to Section 24410.5 if (1) the member meets the criteria of subparagraph (F) of paragraph (2) of subdivision (c), and (2) the allowance payable under that subparagraph, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415, is greater than the allowance payable under Section 24410.5, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415.

(e) A retired member, option beneficiary, or surviving spouse subject to this section shall receive the annual minimum allowance pursuant to this section unless the system receives in writing, on a form prescribed by the system, notification from the member, option beneficiary, or surviving spouse of his or her election not to receive the increase provided under this section.

(f) Benefits payable under this section shall be initially paid by the system on or before September 1, 2001.

SEC. 25. Section 24613 of the Education Code is amended to read:

24613. (a) Payment pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons under this part constitutes a complete discharge and release of the board, system, and plan from liability for that payment.

(b) Notwithstanding Sections 751 and 1100 of the Family Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, or beneficiary of a member pursuant to this part, the payment shall fully discharge the board, system, and plan from all adverse claims thereto unless, before payment is made, a written notice of adverse claim is received at the system's office

1 ~~in Sacramento~~ headquarters office, as established pursuant to  
2 Section 22375.

3 SEC. 26. Section 24701 of the Education Code is amended to  
4 read:

5 24701. Those credentialed members of the San Francisco  
6 ~~City and County~~ Employees' Retirement System on June 30,  
7 1972, who make an irrevocable election to be covered only by  
8 the State Teachers' Retirement Plan under this part for prior and  
9 future service performed in San Francisco, shall be allowed to be  
10 covered for other certificated service concurrently, where the  
11 provisions of the city and county charter permit. This shall not  
12 include any credited service, as defined in Section 22121.

13 SEC. 27. Section 24704 of the Education Code is amended to  
14 read:

15 24704. The San Francisco ~~City and County~~ Employees'  
16 Retirement System shall provide concurrent retirement benefits  
17 for classified and other noncertificated service in the San  
18 Francisco system according to the provisions applicable to  
19 miscellaneous employees of the time of the concurrent retirement  
20 for:

21 (a) Members of that system who transfer to the Defined  
22 Benefit Program after June 30, 1972.

23 (b) Persons who were members of both the San Francisco  
24 system and the Defined Benefit Program on June 30, 1972.

25 (c) Any person who could have qualified under subdivision (b)  
26 if he or she had not taken a refund from either the San Francisco  
27 System or the Defined Benefit Program, but not both, provided  
28 the person qualifies for and redeposits prior to retirement.

29 SEC. 28. Section 24750 of the Education Code is amended to  
30 read:

31 24750. Those members who took a refund of their  
32 accumulated contributions from the former Los Angeles Unified  
33 School District Retirement System or the former Los Angeles  
34 Community College District Retirement System or the San  
35 Francisco ~~City and County~~ Employees' Retirement System, prior  
36 to July 1, 1972, and who have former Permanent Fund  
37 contributions only on deposit related to former local system  
38 service shall have those accumulated former Permanent Fund  
39 contributions on deposit as of July 1, 1972, treated in the same  
40 manner as accumulated retirement contributions of all nonlocal



1 members. Upon discovery and notification to those members,  
2 they shall do either of the following:

3 (a) Redeposit all or a portion of the accumulated retirement  
4 contributions required to bring the account into full balance with  
5 regular interest prior to retirement under this part.

6 (b) Leave those former Permanent Fund accumulated  
7 contributions on deposit and receive a reduced retirement  
8 allowance under the law as it read on June 30, 1972.

9 SEC. 29. Section 24751 of the Education Code is amended to  
10 read:

11 24751. Those members who took a refund of their  
12 accumulated retirement contributions from the former Los  
13 Angeles Unified School District Retirement System or the former  
14 Los Angeles Community College District Retirement System or  
15 the San Francisco ~~City and County~~ Employees' Retirement  
16 System, prior to July 1, 1972, and who also took a refund of their  
17 Permanent Fund contributions from the State Teachers'  
18 Retirement System with respect to the Defined Benefit Program,  
19 and who redeposited their contributions in the local system but  
20 did not redeposit their Permanent Fund contributions in the State  
21 Teachers' Retirement System with respect to the Defined Benefit  
22 Program, shall redeposit all or a portion of the accumulated  
23 retirement contributions required to bring the account into full  
24 balance with regular interest from the date of refund to the date  
25 of payment. The redeposit may be made immediately upon  
26 notification by the system and shall be made prior to retirement  
27 under this part. The redeposit shall be made in a lump sum or by  
28 installment payments as specified by the chief executive officer.

29 SEC. 30. Section 27100 of the Education Code is amended to  
30 read:

31 27100. A participant may at any time designate or change the  
32 designation of one or more primary beneficiaries and one or  
33 more contingent beneficiaries to receive any lump-sum death  
34 benefit that may be payable under the plan. The beneficiary for  
35 the lump-sum death benefit under this part may be a person, trust,  
36 or the estate of the participant. The beneficiary shall be  
37 designated on a form prescribed by the system that is received in  
38 the system's ~~office in Sacramento~~ *headquarters office, as*  
39 *established pursuant to Section 22375*, before the participant's  
40 death.

1 SEC. 31. This act is an urgency statute necessary for the  
2 immediate preservation of the public peace, health, or safety  
3 within the meaning of Article IV of the Constitution and shall go  
4 into immediate effect. The facts constituting the necessity are:

5 To ensure proper codification and clarification of statutes that  
6 are in current use by the State Teachers' Retirement System, it is  
7 necessary that this act take effect immediately.